

1040/74

FILED
BUSINESS DIVISION
FEB 27 4 07 PM '95
SAN DIEGO COUNTY

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Attorneys for Defendant RDI VIDEO SYSTEMS, INC.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO

MURAKAMI-WOLF-SWENSON,
a California corporation.

Plaintiff,

v.

RDI VIDEO SYSTEMS,
a California corporation and
DOES I through XX, inclusive.

Defendants.

Case No. 532481

ANSWER TO UNVERIFIED
COMPLAINT

GENERAL DENIAL

Pursuant to C.C.P. §431.30(d), Defendant RDI VIDEO SYSTEMS, INC. generally denies each and every allegation contained in the complaint filed by Plaintiff MURAKAMI-WOLF-SWENSON ("the complaint").

FIRST AFFIRMATIVE DEFENSE

The allegations of the complaint fail to set forth facts sufficient to state a cause of action for relief against this answering defendant.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is, by its conduct prior to the filing of this

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1 action, estopped from recovering under any of the causes of
2 action advanced by the complaint.

3 THIRD AFFIRMATIVE DEFENSE

4 Plaintiff lacks the capacity to bring suit in this action.

5 FOURTH AFFIRMATIVE DEFENSE

6 Defendant is entitled to set off from any and all amounts
7 allegedly due to plaintiff an amount which is in excess of the
8 total sum of plaintiff's claims.

9 FIFTH AFFIRMATIVE DEFENSE

10 Plaintiff did not exercise due care, caution and prudence
11 in the care of the property and activity at the time and place of
12 the occurrences and events alleged in the complaint, and the
13 damages, if any, which plaintiff claims were proximately caused
14 by or attributable to the negligence or lack of care of the
15 plaintiff, and by reason of the foregoing plaintiffs are barred
16 from any recovery herein.

17 SIXTH AFFIRMATIVE DEFENSE

18 Plaintiff has engaged in conduct and activity sufficient to
19 constitute a waiver of any alleged breaches of contract,
20 negligence, or intentional misconduct, if any, by defendant as
21 set forth in the complaint.

22 SEVENTH AFFIRMATIVE DEFENSE

23 Plaintiff has failed to take adequate steps to mitigate,
24 alter, reduce or otherwise diminish, the damages, if any, alleged
25 in the complaint, and by reason of the foregoing, plaintiff is
26 barred from any recovery herein.

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EIGHTH AFFIRMATIVE DEFENSE

Defendant incorporates by reference as though set forth fully herein all of the claims and causes of action alleged in its Cross-Complaint for Breach of Contract and Conversion filed concurrently herewith, and asserts the same, including all rights of offset created thereby, as affirmative defenses to the complaint.

WHEREFORE, defendant prays for judgment as follows:

1. That plaintiff take nothing by the complaint and that judgment be rendered for defendant;
2. For costs of suit herein incurred; and
3. For such other relief as the court deems proper.

Dated: FEB. 27, 1985

ROBBINS & KEEHN

By: 

Michael V. Pundeff
Attorneys for Defendant